

JUL. -31'03 (THU) 14:49

#15
P. 002

Election

Attorney's Docket No. 35718/235742 (5718-114)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Li *et al.* Confirmation No.: 7724
Appl No.: 09/899,645 Group Art Unit: 1638
Filed: July 5, 2001 Examiner: R. Kallis
For: METHODS FOR REGULATING BETA-OXIDATION IN PLANTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated July 1, 2003, in which the Examiner has required a further restriction of Group I, namely Claims 1-3, 5-14, 17, 21-22, and 24-30. The Examiner has required an election of a distinct nucleotide sequence set forth in SEQ ID NO:1, SEQ ID NO:3, or SEQ ID NO:5. Applicant hereby provisionally elects with traverse to prosecute the sequence set forth in SEQ ID NO:1 and expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

First, Applicants wish to point out that no where in the specification or claims is there reference to SEQ ID NOS:3 or 5. In fact, there are only two sequences in the sequence listing. The additional sequences are provided as GenBank accession numbers. This is because these sequences were published sequences in the art.

The invention is drawn to an acyl-CoA thioesterase nucleotide and amino acid sequence from maize and its use in modulating acyl-CoA thioesterase expression. Other sequences noted in the specification that can be used in the methods of the invention include the known sequences GenBank Accession Nos. AF124264 and AF124265. Accordingly, there is no burden on the Examiner to consider these sequences in the methods of the invention when considering SEQ ID NO:1. Thus, the restriction requirement should be withdrawn and all the sequences considered together.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

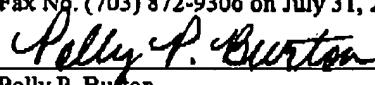
In re: Li *et al.*
Appl No.: 09/899,645
Filed: July 5, 2001
Page 2

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



W. Murray Spruill
Registration No. 32,943

CUSTOMER NO. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260	CERTIFICATION OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to Examiner Russell Kallis at the US Patent and Trademark Office at Fax No. (703) 872-9306 on July 31, 2003.  _____ Polly P. Burton
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

RTA01/2140461v1